

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 17898 of 2007(E)

PETITIONER:

SAROJINI, AGED 60 YEARS, W/O. CHANDRAN,
RESIDING AT NADUVALLIKULATHIL HOUSE,
PALLASSANAN AMSOM, CHITTOOR TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.K.VINOD CHANDRAN

RESPONDENTS:

1. SULOCHANA, AGED 58 YEARS,
W/O. CHENTHAMARAKSHAN, RESIDING AT
KAITHARAVIL HOUSE, PERUMATTY PANCHAYATH,
VANDITHANAM VILLAGE, CHITTOOR TALUK,
PALAKKAD DISTRICT.
2. CHENTHAMARAKSHAN, AGED 61 YEARS,
RESIDING AT KAITHARAVIL HOUSE,
PERUMATTY PANCHAYATH, VANDITHAVALAM VILLAGE,
CHITTOOR TALUK, PALAKKAD DISTRICT.
3. C.SAJEEVAN, AGED 33 YEARS,
RESIDING AT KAITHARAVIL HOUSE,
PERUMATTY PANCHAYATH, VANDITHAVALAM VILLAGE,
CHITTOOR TALUK, PALAKKAD DISTRICT.
4. THE SUPERINTENDENT OF POLICE,
PALAKKAD DISTRICT.

WP(C) NO: 17898/2007

**5. SUB INSPECTOR OF POLICE,
PUTHUNAGARAM.**

**BY ADV. SRI.K.MOHANAKANNAN R1 TO R3
SMT.A.R.PRAVITHA
GOVERNMENT PLEADER SRI. P.A.SALIM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C) NO: 17898/2007 E

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PARTITION DEED DT. 3/09/73.

EXT.P2. COPY OF THE RELEASE DEED DT. 17/2/78.

EXT.P3. COPY OF THE POSSESSION CERTIFICATE BEARING NO. 3008/2006 DT. 1/09/2006.

EXT.P4. COPY OF THE IA NO. 496/07 WITH ORDER DT. 3/3/07.

EXT.P5. COPY OF THE COUNTER AFFIDAVIT ALONG WITH THE ROUGH SKETCH FILED BY THE RESPONDENTS 1 TO 3 IN OS NO. 102/2007.

EXT.P6. COPY OF THE COMPLAINT FILED BY THE PETITIONER DT. 31/5/2007.

EXT.P7. COPY OF THE COMPLAINT TO THE R4.

RESPONDENT'S EXHIBITS

EXT.R2A. COPY OF THE PLAINT IN OS NO. 117/07 BEFORE THE MUNSIF COURT, CHITTUR BY THE PETITIONER.

EXT.R2B. COPY OF THE NOTICE NO. 2/07 DT. 7/3/07 BY THE DIST. SURVEY SUPERINTENDENT TO THE R1.

EXT.R2C. COPY OF THE NOTICE NO. 2/2007 DT. 4/4/07 BY THE DIST. SURVEY SUPERINTENDENT.

True copy

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K. BALAKRISHNAN NAIR & HARUN-UL-RASHID,JJ

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W.P.(C). NO. 17898 OF 2007

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Dated this the 23rd day of August, 2007.

JUDGMENT

Balakrishnan Nair,J

The petitioner and the 1st respondent are sisters. The respondent 2 is the husband and respondent 3 is the son of the 1st respondent. The civil suits between them are pending before the Civil Court. The complaint of the petitioner is that her sister and her men are encroaching into her property. Her sister,the 1st respondent has moved the civil court for fixing the boundary of her property. Thus, the disputes between the sisters are pending before the Civil Court. In the suit filed by the petitioner, there is an interim injunction. The petitioner submits that inspite of the injunction, the 1st respondent and her people are encroaching into her property and threatening her and preventing her workman from carrying on their work. So she has filed Ext.P6 representation before the Sub Inspector of Police and Ext.P7 before the District Superintendent of Police. Thereafter, this writ petition is filed seeking the following reliefs:

- i. To direct the respondents 4 and 5 to afford necessary police protection to the petitioner to enjoy the properties owned by her and scheduled as A Schedule in Exhibit P-1 document and to collect the yield and usufructs from the said property.

- ii. To direct respondents 4 and 5 to take appropriate action on Exhibit P-6 and P-7 and conduct an investigation into the same.
- iii. To direct the respondents 4 and 5 to ensure that the injunction order dated 03.03.2007 passed in I.A. No. 496 of 2007 in O.S. 102 of 2007 and contained in Exhibit P4 is complied with by respondents 1 to 3.
- iv. To direct the respondents 4 and 5 to afford necessary police protection to the life and limb of the petitioner, her husband and her employees

2. The respondents 1 to 3 have filed a counter affidavit denying the allegations of the petitioner. It is submitted that the properties mentioned in schedule A and schedule B of Ext.P1 Partition deed respectively are allotted to the shares of the petitioner and the first respondent. Since the boundary of the said two items are not properly fixed and demarcated, the same generates frequent disputes, it is submitted. Therefore, the suit for fixation of boundary is filed.

3. The learned counsel for the petitioner relying on Ext.P5 submits that the boundary is already fixed and therefore the contention of the party-respondents that there is no proper boundary is incorrect, it is submitted.

4. The learned Government Pleader upon instructions submits that both sides were summoned to the police station and they were

advised to file a joint application before the Taluk Surveyor for measurement and demarcation of the respective properties. We are of the considered opinion that in this civil dispute between the parties the police have no role to play. The parties have to resolve their dispute through the civil court. If civil court's orders are violated, they have remedies under the Code of Civil Procedure. If necessary, the concerned civil court can direct the police to enforce its orders also. Therefore, most of the reliefs sought for in this writ petition cannot be granted. But if there is any threat to the life of the petitioner, she can move the police. In that event, the police shall look into the matter and take appropriate action.

The writ petition is disposed of as above.

K. BALAKRISHNAN NAIR, JUDGE.

HARUN-UL-RASHID, JUDGE.

W.P.(C) NO. 17898/2007

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